

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-10545-RGS

LINDA MALLOY, Administratrix of the  
Estate of Willie L. Murray, Jr.,  
Mother, Guardian and Next Friend  
Willie L. Murray, III.

Plaintiff,

v.

CITY OF BOSTON and OFFICER SHAWN  
WEST,

Defendants.

**JOINT EMERGENCY MOTION OF THE PARTIES TO CONTINUE THE JUNE  
25, 2007 TRIAL BECAUSE A GUARDIAN AD LITEM HAS BEEN  
APPOINTED TO REPRESENT PLAINTIFF WILLIE L. MURRAY, III**

The parties, Plaintiff Linda Malloy, as guardian of minor child Willie Murray, III, Defendant City of Boston and Defendant Shawn West hereby request that the June 25, 2007 trial be continued for one month or some other time convenient for the Court.

As reasons for their emergency motion, the parties state:

1. Counsel for the parties thought that they had reached an agreement to settle this case.
2. Counsel for all parties still anticipates that this case will be resolved without the need for a trial.
3. The City of Boston has made an offer that Edward F. McLaughlin, counsel for Plaintiff, has recommended that the guardian for Plaintiff Willie Murray, III, accept.
4. However, Linda Malloy, the guardian of minor child Willie Murray, III, has refused to communicate with Attorney McLaughlin regarding the case.

5. Attorney McLaughlin has unsuccessfully attempted to communicate with Ms. Malloy at least 20 times by phone and fax.
6. On Saturday, June 2, 2007, Linda Malloy received and signed for a correspondence delivered by FedEx from Attorney McLaughlin. Still, Ms. Malloy continues to refuse to communicate with counsel.
7. Accordingly, on Friday, June 8, 2007, the Probate and Family Court (Merrill, J.) appointed a *Guardian Ad Litem* to represent Willie Murray's interests. See Exhibit A, Appointment of Guardian Ad Litem, attached hereto.
8. Attorney Janine D. Rivers, 339 Hancock Street, North Quincy, MA 02171, has been appointed by the Court.
9. It will take Attorney Rivers considerable time to review the case file to determine if settlement is in the child's best interest.
10. In addition to regular civil litigation discovery, the case file includes: one month of grand jury testimony, a Boston Police Department Internal Affairs Division investigation and a Boston Police Homicide Unit investigation.
11. Allowing this motion will further the interests of justice and judicial economy.
12. Attorney for Defendant Officer Shawn West, James W. Simpson, Jr., assents to this motion.
13. Tom Donohue, counsel for the City, had understood that the parties had reached a settlement agreement and made plans to be on a family vacation out of the county on the date of trial. Airfare and accommodations have been paid for and are not refundable.
14. Finally, on June 8, 2007, Tom Donohue, counsel for the City of Boston, gave notice that his last day working for the City will be on Friday, June 29, 2007. Accordingly, new counsel for the City will have to be assigned to this case.

Wherefore, the parties, Plaintiff Linda Malloy, as guardian for the minor child, Willie Murray, III, Defendant City of Boston and Defendant Officer Shawn West, respectfully request that this Honorable Court grant their Emergency Motion to Continue the Trial set for June 25, 2007 because a *Guardian Ad Litem* has been appointed to represent the interest of the minor child, Willie Murray, III.

Respectfully submitted,

PLAINTIFF, LINDA MALLOY as  
guardian for Willie Murray,  
III

DEFENDANT, CITY OF BOSTON  
William F. Sinnott  
Corporation Counsel

By her attorney:

By its attorney:

Edward F. McLaughlin [by TD]  
Edward F. McLaughlin,  
BBO# 336980  
Law Office of Edward F.  
McLaughlin  
6 Beacon Street, Suite 910  
Boston, MA 02108  
(617) 523-7001

Thomas Donohue  
Thomas Donohue, BBO# 643483  
Assistant Corporation Counsel  
City of Boston Law Department  
City Hall, Room 615  
Boston, MA 02201  
(617) 635-4039

**CERTIFICATE OF SERVICE**

I hereby certify that this document was filed through the ECF system and will therefore be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as nonregistered participants on June 11, 2007.

Thomas Donohue  
/s/ Thomas Donohue

## **Exhibit A**

## Commonwealth of Massachusetts

## The Trial Court

Suffolk Division

Probate and Family Court Department

Docket No. 05W-0152

02P-0090

02P-2191

## APPOINTMENT OF GUARDIAN AD LITEM

At a Probate and Family Court held at Boston, on

June 8, 2007

(date)

Merrill, J.,

(name of justice)

presided

WHEREAS, in the matter of

Willie Murray, III

it appears that a *guardian ad litem* should be appointed to:

☒ represent the interest of Willie Murray, III who is:  
(name of person(s)/heir(s))

☒ minor(s)☐ under a disability

☐ represent the interest of person(s) not ascertainable or not in being who are or may become interested in the case.

☐ investigate -- evaluate -- and report in writing on the following issues:

The proposed settlement of civil action in the Federal District Court for the District of Massachusetts being action #1:05-cv-10545, a wrongful death action, against the City of Boston and Officer Shawn West brought by the Mother and Guardian of the Ward, Willie Murray, III for the death of his Father

THEREFORE this Court hereby appoints Janine D. Rivers, Esq.

(name of person appointed)

of 339 Hancock Street, N. Quincy, MA 02171

(street address, city/town, state, zip code)

☒ *guardian ad litem* / next friend to represent the person's(s') interest.

☐ *guardian ad litem* / investigator to review the matter and to file a written report to the Court on or before: \_\_\_\_\_  
(date)

☐ *guardian ad litem* / evaluator to review the matter and to file a written report to the Court on or before: \_\_\_\_\_  
(date)

☐ *guardian ad litem* with the authorization of this Court to examine any and all records, including but not limited to medical records pertaining to the person(s) pursuant to G.L.M. c. 201, §§6, 14 -- excluding those records which are privileged.

☐ *guardian ad litem*The fee for the services of the *guardian ad litem* shall be paid by:☐ the parties,

(name specific party if applicable)

☐ the estate of

Willie Murray, Jr.

(name of estate)

☐ the Commonwealth of Massachusetts☐

Date

June 8, 2007Chondrea Murrell

Justice of Probate and Family Court

CJ-P 119 (10/97)

(OVER)

TurboLaw (800) 518-8726 -- c.g.f.

**(BACK OF GUARDIAN AD LITEM APPOINTMENT)**

I, \_\_\_\_\_, hereby accept the above appointment and acknowledge receipt of Fiscal Year 1997 Memo # 14.

Date \_\_\_\_\_

(signature of person appointed)

The above signed personally appeared before me and made oath that he/she would faithfully and impartially perform the duty(ies) specified by the foregoing appointment.

Date \_\_\_\_\_

(Notary Public/Justice of the Peace)

My Commission Expires: \_\_\_\_\_

The *guardian ad litem* having fully examined and considered the matter of

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

☐ I have completed my investigation and have filed a written report as ordered.

☐ I hereby assent to \_\_\_\_\_

\_\_\_\_\_

☐ I have submitted an itemized bill in the amount of \$ \_\_\_\_\_ to the named payor.

Date \_\_\_\_\_

(signature of person appointed)

Note: All *guardians ad litem* must comply with Supreme Judicial Court Rule 1.07.